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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/594,696

09/28/2006

Izumi Mizuno

2293.008US1

9467

21186

7590

04/14/2009

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.

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EXAMINER

BANH, DAVID H

ART UNIT

PAPER NUMBER

2854

MAIL DATE

DELIVERY MODE

04/14/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/594,696	<b>Applicant(s)</b> MIZUNO ET AL.	
	<b>Examiner</b> DAVID BANH	<b>Art Unit</b> 2854	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 1-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/28/06, 3/20/08</u>  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 1-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on December 16, 2008.

### ***Claim Objections***

2. Claim 19 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claim 19 has not been further treated on the merits.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Due to the extreme nature of the 112, second paragraph, problems prior art cannot be accurately applied to the claims. Once the problems are overcome, relevant prior art will then be applied.
5. Claims 15-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

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In claim 15, the claim recites a "commercial production sales system", which would be directed to an apparatus, but then goes on to list method steps. In line 3 of claim 15, the recitation "image section which prints" is indefinite and it is not believed that an image section can perform the action of printing. Additionally, in lines 3 and 4 of claim 15, the recitation "said desired commercial product" and "said commercial product-use prints" lack antecedent basis.

The dependency of claim 15 on claim 6 appears to be improper as claim 15 is directed to a system and claim 6 is directed to a commercial production sales-use print. It should also be noted that in the preamble of claim 6, the recitation "printing comprising" appears improper as "printing" lacks antecedent basis.

On line 5 of claim 15, the recitations "the photographed commercial product" and "photographed image data" lack antecedent basis.

In claim 16, the recitation "the name, street address and telephone number" lacks antecedent basis.

Claim 17 is rejected as depending from rejected claim 15.

Claim 18 is rejected as being narrative and indefinite and failing to conform with current U.S. practice. In line 4 of claim 18, it is believed that the comma between "data" and "into" is improper. In line 5 of claim 18, the recitation "said image section" lacks antecedent basis". The recitation "image section which prints" appears to be a translation error, as an image section is not believed to be capable of printing. The recitation "said desired commercial product" lacks antecedent basis. The recitation "contained by either of said commercial product-use prints according to claim 6" appears to be an improper

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dependency and further claim 6 does not establish a plurality of commercial product-use prints.

Claim 19 possesses an improper multiple dependency on claims 6 and 15. Additionally, the recitation "unspecified number of consumers" should be preceded with the modifier "a" and recitation "the ones" lacks antecedent basis.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID BANH whose telephone number is (571)270-3851. The examiner can normally be reached on M-Th 9:30AM-8PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571)272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business

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Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO

Customer Service Representative or access to the automated information system, call

800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DHB

April 13, 2009

/Daniel J. Colilla/  
Primary Examiner  
Art Unit 2854